

# NORTH CAROLINA GENERAL ASSEMBLY

## LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH, NC 27601



August 23, 2012

Senator Tom Apodaca  
Chairman  
Legislative Research Commission  
North Carolina State Senate  
16 W. Jones Street, Room 2010  
Raleigh, NC 27601-2808

Representative Tim Moore  
Chairman  
Legislative Research Commission  
North Carolina House of Representatives  
16 W. Jones Street, Room 1326  
Raleigh, NC 27601-2808

Dear Senator Apodaca and Representative Moore:

Pursuant to G.S. 120-30.13, as enacted in Section 66.7(b) of S.L. 2012-194, Senator Apodaca is designated as the Senate Cochair of the 2011-2012 Legislative Research Commission ("Commission"). Representative Moore is designated as the House Cochair of the Commission.

As you prepare your agenda for the Commission, pursuant to G.S. 120-30.17, we authorize the Commission to appoint the following Study Committees and Advisory Subcommittees to study the following matters and to refer one study to a state agency. The Cochairs and appointees to each Committee are also identified. Please restrict each study committee and advisory subcommittee to a maximum of four meetings unless additional meetings are pre-approved by our offices.

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### **Authorized Joint Advisory Subcommittees:**

**Wetland and Stream Mitigation** – The LRC Advisory Subcommittee on Wetland and Stream Mitigation shall study issues related to the overall policies and roles of agencies within State government, the federal government, and the private sector to plan, construct and monitor wetland and stream mitigation. The Advisory Subcommittee may specifically study the following items:

1. The process for annual adjustments of Ecosystem Enhancement Program fees, including whether the use of the Civil Works Construction Cost Index System

published by the U.S. Army Corps of Engineers as a basis for fee escalation is necessary given the past direction of the General Assembly to base program fees on actual costs;

2. Whether compensatory mitigation should be allowed any hydrologic area located in the same river basin as the site being mitigated. For purposes of this study, the terms "compensatory mitigation" and "hydrologic area" are as defined in G.S. 143-214.11;
3. Whether the compensatory mitigation fee payment system represents the most efficient and effective way to provide compensatory mitigation and how the program could be revised to lessen its economic impact on the State's businesses and industries;
4. Whether the State should withdraw from the Memorandum of Agreement between the U.S. Department of Environment and Natural Resources, the U.S. Department of Transportation, and the U.S. Army Corps of Engineers, which established the Ecosystem Enhancement Program in 2003;
5. Whether the North Carolina Department of Transportation should purchase its stream and wetland mitigation credits from an approved mitigation bank within the private sector where available;
6. Whether the State should consider assuming the Clean Water Act Section 404 permitting role from the federal government;
7. Whether the mitigation projects overseen by the North Carolina Department of Transportation, Natural Systems Unit have been effective and cost efficient;
8. Whether the North Carolina Department of Environment and Natural Resources' internal review process of stream and wetland mitigation projects designed, stamped, and signed by a licensed professional engineer is necessary and/or appropriate;
9. Any other issues associated with stream and wetland mitigation deemed appropriate by the Committee.

<b>Senate Appointees</b>		<b>House Appointees</b>	
Sen. Jackson	Chair	Rep. Lewis	Chair
Sen. Daniel	Member	Rep. Hastings	Member
Sen. Harrington	Member	Rep. Iler	Member
Sen. Rabon	Member	Rep. R. Moore	Member
Sen. Walters	Member	Rep. T. Moore	Member
Butch Smith, General Manager, Cleveland County Water	Member	Christopher A. Huysman, Engineer	Member
Dr. Curtis J. Richardson, Professor, Duke University Nicholas School of the Environment	Member	David N. Levinson, Developer	Member

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We will look forward to reviewing the Commission's report regarding the study results, as well as any recommended legislation, prior to dissolution of the Commission on January 15, 2013 pursuant to G.S. 120-30.11. Please let us know if we or our staff may be of assistance.

Thank you for your service.

Sincerely,

Sen. Phil Berger  
President Pro Tempore of the Senate

Rep. Thom Tillis  
Speaker of the House of Representatives

Cc: George Hall, Legislative Services Officer